

REMARKS

Entry of this amendment, reconsideration, and allowance are respectfully requested.

Typographical errors are corrected in claims 14 and 19. No new issues are raised and thus the amendment should be entered.

Claims 1-6, 8, 9, 12-16, and 18-19 stand rejected under 35 U.S.C. §102 as allegedly being anticipated by newly-applied McDermott. This rejection is respectfully traversed.

To establish that a claim is anticipated, the Examiner must point out where each and every limitation in the claim is found in a single prior art reference. *Scripps Clinic & Research Found. v. Genentec, Inc.*, 927 F.2d 1565 (Fed. Cir. 1991). Every limitation contained in the claims must be present in the reference, and if even one limitation is missing from the reference, then it does not anticipate the claim. *Kloster Speedsteel AB v. Crucible, Inc.*, 793 F.2d 1565 (Fed. Cir. 1986). McDermott fails to satisfy this rigorous standard.

Claims 1 and 8 use an applied voltage imbalance between series-connected batteries to, for example, charge the batteries at different voltages. Similarly, claim 14 recites serially-coupled batteries. The limitation series-connected and series-coupled may not be ignored.

The Federal Circuit has explained that preambles may not be ignored as a matter of course. “[A] claim preamble has the import that the claim as a whole suggests for it.” *Bell Communications Research, Inc. v. Vitalink Communications Corp.*, 55 F.3d 615, 620 (Fed. Cir. 1995). “If the claim preamble, when read in the context of the entire claim, recites limitations of the claim, or, if the claim preamble is ‘necessary to give life, meaning, and vitality’ to the claim, then the claim preamble should be construed as if in the balance of the claim.” *Pitney Bowes, Inc. v. Hewlett-Packard Co.*, 182 F.3d 1298 (Fed. Cir. 1999). Moreover, a “preamble may provide context for claim construction, particularly, where ... that preamble’s statement of

intended use forms the basis for distinguishing the prior art in the patent's prosecution history."

Metabolite Labs., Inc. v. Corp. of Am. Holdings, 370 F.3d 1354, 1358-62, (Fed. Cir. 2004). See also *Catalina Mktg. Int'l v. Coolsavings.com, Inc.*, 289 F.3d 801, 808-09 ("[C]lear reliance on the preamble during prosecution to distinguish the claimed invention from the prior art transforms the preamble into a claim limitation because such reliance indicates use of the preamble to define, in part, the claimed invention.")

The series-connected or series-coupled batteries defined in the preamble of the independent claims breathe life and meaning into those claims. The series-connected or series-coupled batteries are specifically referenced in the body of the independent claims. For example, claim 1 recites a method "for managing a battery system including a number of serially-coupled batteries comprising: detecting different battery voltages over at least two of the batteries of the battery system." The detecting step in the body of claim 1 clearly refers to "the batteries of the battery system" which are defined in the preamble to be "serially-coupled batteries."

In contrast, McDermott does not disclose series-connected or series-coupled batteries. Rather, McDermott illustrates in Figure 1 and describes a battery system with a parallel battery circuit. Col. 4, lines 33-35 state: "Referring now to FIG. 1, multiple battery system 100 has starter battery 102 and auxiliary battery 104 connected by parallel circuit 106." Emphasis added. Figure 2 also shows the batteries parallel-connected. Because of McDermott's parallel battery circuit, McDermott cannot control the voltage distribution over the batteries and purposefully create an applied voltage imbalance between the batteries. Thus, McDermott fails to teach different batteries in a series-connection or coupling receiving an applied voltage level that is based on a measure voltage level of that battery.

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The focus of McDermott is battery drainage prevention. When the vehicle charger is operating, both a starter battery and one or more auxiliary batteries, connected in parallel, are charged with the same voltage. When the vehicle is stopped, the starter battery is disconnected from the circuit in order to ascertain that the starter battery is not drained due to electrical loads connected to the circuit. But as a further feature, the system can monitor the discharge levels of the starter battery and the auxiliary batteries and may connect the auxiliary batteries to the starter battery in order to charge the latter if it is below a certain discharge level.

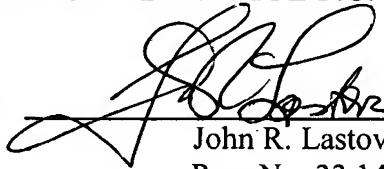
Lacking all of the features of the independent claims, the anticipation rejection should be withdrawn. Tamai is cited in combination with McDermott to show temperature sensing, a timer, and a discrete type DC/DC converter. But even if this were so, that does not remedy the deficiencies noted above with respect to McDermott.

The application is in condition for allowance. An early notice to that effect is requested.

Respectfully submitted,

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